

CHAPTER NO. 432

HOUSE BILL NO. 1530

By Representative Kisber

Substituted for: Senate Bill No. 1543

By Senator Rochelle

AN ACT to amend Tennessee Code Annotated Title 9, Chapter 21 relative to the issuance, sale and terms of bonds, capital outlay notes, refunding bonds and related contracts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 9-21-124 is hereby amended to designate the existing language as subsection (a) and by adding a new subsection, as follows:

Prior to the adoption or promulgation by the State Funding Board of guidelines, rules or regulations with respect to the contracts and agreements authorized in Sections 9-21-213(d), 9-21-302(b), 9-21-305(c), 9-21-602(c), 9-21-907(c), 9-21-910(d), 9-21-1006(c) and 9-21-1008(c) hereof, a local government may enter into such contracts or agreements to the extent otherwise authorized in this chapter or in any other law notwithstanding Sections 9-21-213(d), 9-21-302(b), 9-21-305(c), 9-21-602(c), 9-21-907(c), 9-21-910(d), 9-21-1006(c) and 9-21-1008(c) hereof. Nothing in the provisions of Sections 9-21-213(d), 9-21-302(b), 9-21-602(c), 9-21-907(c), 9-21-910(d), 9-21-1006(c) and 9-21-1008(c) is intended to alter any existing authority in this chapter or in any other law otherwise providing authority for a local government to enter into the contracts or agreements described in Sections 9-21-213(d), 9-21-302(b), 9-21-305(c), 9-21-602(c), 9-21-907(c), 9-21-910(d), 9-21-1006(c) and 9-21-1008(c) heretofore entered into or entered into prior to the adoption or promulgation by the State Funding Board of guidelines, rules or regulations.

SECTION 2. Tennessee Code Annotated, Title 9, Chapter 21, Part 1 is hereby amended by adding two new sections, as follows:

9-21-___ The State Funding Board shall establish guidelines, rules or regulations with respect to the agreements and contracts authorized in Sections 9-21-213(d), 9-21-302(b), 9-21-305(c), 9-21-602(c), 9-21-907(c), 9-21-910(d), 9-21-1006(c) and 9-21-1008(c) hereof, which may include, but shall not be limited to, the following: (1) the conditions under which such agreements or contracts can be entered into; (2) the methods by which such contracts are to be solicited and procured; (3) the form and content such contracts shall take; (4) the aspects of risk exposure associated with such contracts; (5) the standards and procedures for counterparty selection, including rating criteria; (6) the procurement of credit enhancement, liquidity facilities, or the setting aside of reserves in connection with such contracts or agreements; (7) the methods of securing the financial interest in such contracts; (8) the methods to be used to reflect such contracts in the local government's financial statements; (9) financial monitoring and periodic assessment of such contracts by the local government; (10) the application and source of non-periodic payments; and (11) educational requirements for officials of any local government responsible for approving any such contract or agreement. Prior to the adoption by the governing body of the

local government of a resolution authorizing such contract or agreement, a request shall be submitted to the Comptroller of this State or his designee for a report finding that such contract or agreement is in compliance with the guidelines, rules or regulations of the State Funding Board. Within fifteen (15) days of receipt of the request, the Comptroller or his designee shall determine whether the contract or agreement substantially complies with the guidelines, rules or regulations and shall report thereon to the local government. If the report of the Comptroller or his designee finds that the contract or agreement complies with the guidelines, rules or regulations of the State Funding Board or the Comptroller shall fail to report within said fifteen (15) day period, then the local government may take such action with respect to the proposed contract or agreement as it deems advisable in accordance with the provisions of this section and the guidelines, rules or regulations of the State Funding Board. If the report of the Comptroller or his designee finds that such contract or agreement is not in compliance with the guidelines, rules or regulations, then the local government is not authorized to enter into such contract or agreement. The guidelines, rules or regulations shall provide for an appeal process to a determination of noncompliance.

9-21-__ When entering into any contracts or agreements authorized under this Chapter, including contracts or agreements providing for liquidity and credit enhancement and reimbursement agreements relating thereto, interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings or both, other interest rate hedging agreements, evidencing a transaction bearing a reasonable relationship to this State and also to another state or nation, the local government may agree in the written contract or agreement that the rights and remedies of the parties thereto shall be governed by the laws of this State or the laws of such other state or nation; provided, however, jurisdiction over any local government against which an action on such a contract or agreement is brought shall lie solely in a court located in Tennessee which would otherwise have jurisdiction of actions brought in contract against such local government.

SECTION 3. Tennessee Code Annotated, Section 9-21-213 is hereby amended by adding a new subsection, as follows:

(d) With respect to all or any portion of any issue of general obligation bonds issued or anticipated to be issued hereunder, at any time during the term of the general obligation bonds, and upon receipt of a report of the Comptroller of this State or his designee finding that the contracts and agreements authorized herein are in compliance with the guidelines, rules or regulations as set forth in section 9-21-1__, a local government by resolution may authorize and enter into interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings or both, and other interest rate hedging agreements under such terms and conditions as the governing body of the local government may determine, including, without limitation, provisions permitting the local government to pay to or receive from any person or entity any loss of benefits under such agreement upon early termination thereof or default under such agreement.

SECTION 4. Tennessee Code Annotated, Section 9-21-302 is hereby amended by redesignating the existing language as subsection (a) and by adding a new subsection (b), as follows:

(b) The governing body of a local government may enter into an agreement to sell its revenue bonds under this part providing for delivery of its

bonds on a date greater than ninety (90) days and not greater than five (5) years (or such greater period of time if approved by the Comptroller or his designee) from the date of execution of such agreement only upon receipt of a report of the Comptroller of the State or his designee finding that such an agreement or contract of a local government to sell its revenue bonds as authorized in this subsection is in compliance with the guidelines, rules or regulations adopted or promulgated by the State Funding Board in accordance with the provisions of Section 9-21-1__ hereof. Agreements to sell revenue bonds for delivery ninety (90) days or less from the date of execution of the agreement to sell the revenue bonds do not require a report of the Comptroller of the State or his designee.

SECTION 5. Tennessee Code Annotated, Section 9-21-305 is hereby amended to add a new subsection (c), as follows:

(c) With respect to all or any portion of any issue of revenue bonds issued or anticipated to be issued hereunder, at any time during the term of the revenue bonds, and upon receipt of a report of the Comptroller of this State or his designee finding that the contracts and agreements authorized herein are in compliance with the guidelines, rules or regulations adopted or promulgated by the State Funding Board, as set forth in section 9-21-1__ hereof, a local government by resolution may authorize and enter into interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings or both, and other interest rate hedging agreements under such terms and conditions as the governing body of the local government may determine, including, without limitation, provisions permitting the local government to pay to or receive from any person or entity any loss of benefits under such agreement upon early termination thereof or default under such agreement.

SECTION 6. Tennessee Code Annotated, Section 9-21-602 is hereby amended to add a new subsection, as follows:

(c) With respect to all or any portion of any issue of capital outlay notes issued hereunder, at any time during the term of the capital outlay notes, and upon receipt of a report of the Comptroller of this State or his designee finding that the contracts and agreements authorized herein are in compliance with the guidelines, rules or regulations adopted or promulgated by the State Funding Board, as set forth in section 9-21-1__ hereof, a local government by resolution may authorize and enter into interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings or both, and other interest rate hedging agreements under such terms and conditions as the governing body of the local government may determine, including, without limitation, provisions permitting the local government to pay to or receive from any person or entity any loss of benefits under such agreement upon early termination thereof or default under such agreement.

SECTION 7. Tennessee Code Annotated, Section 9-21-907 is hereby amended by adding a new subsection (c), as follows:

(c) With respect to all or any portion of any issue of general obligation refunding bonds issued hereunder, at any time during the term of the general obligation refunding bonds, and upon receipt of a report of the Comptroller of this State or his designee finding that the contracts and agreements authorized herein are in compliance with the guidelines, rules or regulations adopted or promulgated by the State Funding Board, as set forth in section 9-21-1__ hereof, a local government by resolution may authorize and enter into interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings

or both, and other interest rate hedging agreements under such terms and conditions as the governing body of the local government may determine, including, without limitation, provisions permitting the local government to pay to or receive from any person or entity any loss of benefits under such agreement upon early termination thereof or default under such agreement.

SECTION 8. Tennessee Code Annotated, Section 9-21-910 is hereby amended to add a new subsection (d), as follows:

(d) The governing body of a local government may enter into an agreement to sell its general obligation refunding bonds under this part providing for delivery of its general obligation refunding bonds on a date greater than ninety (90) days and not greater than the first optional redemption date on which the obligations being refunded can be optionally redeemed resulting in cost savings or at par, whichever is earlier, only upon receipt of a report of the Comptroller of the State or his designee finding that the agreement or contract of a local government to sell its general obligation refunding bonds as authorized in this subsection is in compliance with the guidelines, rules or regulations adopted or promulgated by the State Funding Board in accordance with the provisions of Section 9-21-1__ hereof. Agreements to sell general obligation refunding bonds for delivery ninety (90) days or less from the date of execution of the agreement to sell the general obligation refunding bonds do not require a report of the Comptroller of the State or his designee.

SECTION 9. Tennessee Code Annotated; Section 9-21-1006 is hereby amended by adding a new subsection (c), as follows:

(c) With respect to all or any portion of any issue of revenue refunding bonds issued hereunder, at any time during the term of the revenue refunding bonds, and upon receipt of a report of the Comptroller of this State or his designee finding that the contracts and agreements authorized herein are in compliance with the guidelines, rules or regulations adopted or promulgated by the State Funding Board, as set forth in section 9-21-1__ hereof, a local government by resolution may authorize and enter into interest rate swap or exchange agreements, agreements establishing interest rate floors or ceilings or both, and other interest rate hedging agreements under such terms and conditions as the governing body of the local government may determine, including, without limitation, provisions permitting the local government to pay to or receive from any person or entity any loss of benefits under such agreement upon early termination thereof or default under such agreement.

SECTION 10. Tennessee Code Annotated, Section 9-21-1008 is hereby amended to add a new subsection (c), as follows:

(c) The governing body of a local government may enter into an agreement to sell its revenue refunding bonds under this part providing for delivery of its revenue refunding bonds on a date greater than ninety (90) days and not greater than the first optional redemption date on which the obligations being refunded can be optionally redeemed resulting in cost savings or at par, whichever is earlier, upon receipt of a report of the Comptroller of the State or his designee finding that the agreement or contract of a local government to sell its revenue refunding bonds as authorized in this subsection is in compliance with the guidelines, rules or regulations adopted or promulgated by the State Funding Board in accordance with the provisions of Section 9-21-1__ hereof. Agreements to sell revenue refunding bonds for delivery ninety (90) days or less

from the date of execution of the agreement to sell the revenue refunding bonds do not require a report of the Comptroller of the State or his designee.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 12. This act shall take effect July 1, 1999, the public welfare requiring it.

PASSED: May 28, 1999



JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 17th day of June 1999



DON SUNDQUIST, GOVERNOR